



The Honorable Robert S. Adler, Acting Chairman  
The Honorable Elliot F. Kaye, Commissioner  
The Honorable Ann Marie Buerkle, Commissioner  
The Honorable Dana Baiocco, Commissioner  
The Honorable Peter A. Feldman, Commissioner

U.S. Consumer Product Safety Commission  
4330 East-West Highway  
Bethesda, MD 20814

October 23, 2019

Dear Acting Chairman Adler and Commissioners Kaye, Buerkle, Baiocco, and Feldman:

Consumer Reports writes in strong support of the new Consumer Product Safety Commission (CPSC) staff proposal on infant sleep products. The requirements proposed by staff would reduce serious risks to infants and help ensure that all current and future infant sleep products align with expert safety recommendations. We urge the Commission to move forward on this staff proposal toward a strong final rule, and in the meantime, to quickly secure recalls of all inclined sleepers, which are inherently dangerous to babies.

More specifically, it is critical for you—as CPSC commissioners and leaders charged with protecting the safety of the public—to publish the supplemental notice of proposed rulemaking drafted by CPSC staff as-is or in a stronger form, consider public comments, and keep moving toward a final rule. The CPSC also should use all available tools and authorities to secure recalls of all infant inclined sleep products and accessories remaining on the market and in homes, which would be prohibited under the staff proposal. These products would otherwise remain for sale, and new units could be produced until the effective date of a final rule, putting countless babies at risk for months.

Recent events and scientific findings readily justify these actions. With an estimated 3,600 sudden unexpected infant deaths in 2017, the U.S. has the highest rate of sudden unexpected infant death (SUID) among all developed nations.<sup>1</sup> Accordingly, CR has joined the American Academy of Pediatrics (AAP), Consumer Federation of America, Kids In Danger, and Public Citizen in urging the CPSC to follow safe sleep principles as it develops standards and makes other decisions regarding infant products.<sup>2</sup> CR and our partner groups have stressed that products incompatible with safe sleep principles should not be allowed to remain on the market, and safety standards should always address inherent hazards and keep them out of products—not serve to push these hazards under the rug or minimize their severity.

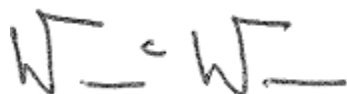
As you know, CR has been investigating the safety of infant sleep products for several months, with a particular focus on inclined and in-bed sleep products, which conflict with AAP safe sleep recommendations for babies to be placed alone in their own space on a firm, flat surface, with no extra bedding.<sup>3</sup> CR first published stories in early April reporting that there were dozens of infant deaths associated with inclined sleepers.<sup>4</sup> Since that time, manufacturers have recalled more than five million inclined sleepers, Congress has advanced a bill to prohibit these products, and the CPSC has learned that the total number of infant deaths linked to these products is at least 73.<sup>5</sup> Consumer Reports more recently published an investigation finding that several infant in-bed sleepers designed for bed-sharing with an adult caregiver are linked to at least 12 deaths between 2012 and 2018.<sup>6</sup> Despite these developments, numerous dangerous sleep products remain for sale and in homes, where they continue to put infants at risk.<sup>7</sup>

We therefore commend CPSC staff for their recent briefing package delivered to the Commission, which proposes safety requirements for all current and future infant sleep products not already addressed by another mandatory standard. It would ensure that all infant products that provide sleeping accommodations, regardless of product or hazard type, must meet a legally enforceable baseline for safety. This is an approach that would help parents and caregivers take the guesswork out of their baby's safety, and help give them confidence that a product marketed for infant sleep truly is safe, and is free from known and foreseeable product hazards.

More specifically, CPSC staff rely on rigorous research and analysis in the briefing package to confirm that infant sleep products should have a back surface angle not exceeding ten degrees. The staff's draft supplemental notice of proposed rulemaking cites the study led by Erin M. Mannen, Ph.D., commissioned by the CPSC, which found that a 20-degree incline is unsafe for babies, and, among other things, that "none of the inclined sleep products that were tested and evaluated as a part of this study are safe for infant sleep."<sup>8</sup> The Mannen Study highlights the inherent dangers of inclined sleep products that place infants at a substantial risk of injury or death. The study makes it clearer than ever: infant inclined sleepers are dangerous, should not be used, and should be removed from the marketplace immediately.

Consumer Reports thanks you for considering our comments to help prevent future tragedies linked to unsafe infant sleep. We urge you to stand up for safety by voting to publish the supplemental notice of proposed rulemaking as-is or in a stronger form, considering public comments, and keeping the proposal moving toward a final rule. We furthermore urge you to secure recalls of all infant inclined sleepers—as well as other unsafe infant products—so that they are no longer manufactured or sold, and that they are removed from homes and everywhere else they may be in use.

Sincerely,



William Wallace  
Manager, Home and Safety Policy



Oriene Shin  
Policy Counsel

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<sup>1</sup> Carlin R and Moon RY. Learning From National and State Trends in Sudden Unexpected Infant Death. *Pediatrics*. 2018;141(3):e20174083 (online at: [pediatrics.aappublications.org/content/pediatrics/141/3/e20174083.full.pdf](https://pediatrics.aappublications.org/content/pediatrics/141/3/e20174083.full.pdf)); CDC, “Sudden Unexpected Infant Death and Sudden Infant Death Syndrome” (Apr. 10, 2019) (online at: [www.cdc.gov/sids/data.htm](https://www.cdc.gov/sids/data.htm)).

<sup>2</sup> Letter from the American Academy of Pediatrics, Consumer Federation of America, Consumer Reports, Kids In Danger, and Public Citizen to the CPSC providing principles for safe infant sleep (Sept. 26, 2019) (online at: [advocacy.consumerreports.org/research/pediatricians-and-consumer-advocates-letter-to-cpsc-recommending-safe-sleep-principles-for-infant-products](https://advocacy.consumerreports.org/research/pediatricians-and-consumer-advocates-letter-to-cpsc-recommending-safe-sleep-principles-for-infant-products)).

<sup>3</sup> AAP Task Force on Sudden Infant Death Syndrome, SIDS and Other Sleep-Related Infant Deaths: Updated 2016 Recommendations for a Safe Infant Sleeping Environment, *Pediatrics*, 2016;138(5):e20162938, October 24, 2016 (online at: [pediatrics.aappublications.org/content/pediatrics/early/2016/10/20/peds.2016-2938.full.pdf](https://pediatrics.aappublications.org/content/pediatrics/early/2016/10/20/peds.2016-2938.full.pdf)).

<sup>4</sup> CR, “Fisher-Price Rock 'n Play Sleeper Should Be Recalled, Consumer Reports Says” (Apr. 8, 2019; last updated May 16, 2019) (online at: [www.consumerreports.org/recalls/fisher-price-rock-n-play-sleeper-should-be-recalled-consumer-reports-says](https://www.consumerreports.org/recalls/fisher-price-rock-n-play-sleeper-should-be-recalled-consumer-reports-says)); CR, “Four More Deaths Linked to Infant Sleepers Like the Fisher-Price Rock 'n Play Sleeper” (Apr. 11, 2019; last updated May 16, 2019) (online at: [www.consumerreports.org/child-safety/more-deaths-linked-to-infant-sleepers-like-fisher-price-rock-n-play-sleeper](https://www.consumerreports.org/child-safety/more-deaths-linked-to-infant-sleepers-like-fisher-price-rock-n-play-sleeper)).

<sup>5</sup> CPSC, Ballot Vote Sheet, Draft Federal Register Notice, and Commission Briefing Package: Supplemental Notice of Proposed Rulemaking for Infant Sleep Products (Oct. 16, 2019) (online at: [www.cpsc.gov/s3fs-public/SupplementalNoticeofProposedRulemakingforInfantSleepProducts\\_10\\_16\\_2019.pdf](https://www.cpsc.gov/s3fs-public/SupplementalNoticeofProposedRulemakingforInfantSleepProducts_10_16_2019.pdf)).

<sup>6</sup> CR, “More Infant Sleep Products Linked to Deaths, a Consumer Reports Investigation Finds” (Oct. 21, 2019) (online at: [www.consumerreports.org/child-safety/more-infant-sleep-products-linked-to-deaths](https://www.consumerreports.org/child-safety/more-infant-sleep-products-linked-to-deaths)).

<sup>7</sup> These models include the Evenflo Pillo Portable Napper, which has been recalled in Canada; the SwaddleMe By Your Bed Sleeper; and the Chicco Lullaby Dream Playard’s inclined napper insert, which is linked to the death of an infant. CR, “Inclined Sleeper Deaths Rise to 50 as Industry Continues to Sell the Products” (June 20, 2019; last updated Aug. 8, 2019) (online at: [www.consumerreports.org/child-safety/inclined-sleeper-deaths-rise-to-50-as-industry-continues-to-sell-the-products](https://www.consumerreports.org/child-safety/inclined-sleeper-deaths-rise-to-50-as-industry-continues-to-sell-the-products)); CR, “Another Inclined Sleeper Linked to Infant’s Death” (July 29, 2019) (online at: [www.consumerreports.org/child-safety/another-inclined-sleeper-linked-to-infants-death](https://www.consumerreports.org/child-safety/another-inclined-sleeper-linked-to-infants-death)); PR Newswire, “Feldman Shepherd Files Lawsuit Against Maker of Chicco ‘Napper’ for Infant Suffocation Death,” press release (Aug. 5, 2019) (online at: [www.prnewswire.com/news-releases/feldman-shepherd-files-lawsuit-against-maker-of-chicco-napper-for-infant-suffocation-death-300896347.html](https://www.prnewswire.com/news-releases/feldman-shepherd-files-lawsuit-against-maker-of-chicco-napper-for-infant-suffocation-death-300896347.html)).

<sup>8</sup> Mannen EM. Biomechanical Analysis of Inclined Sleep. Tab B of CPSC Staff Supplemental Briefing Package on Infant Sleep Products at 60. 2019 (online at: [www.cpsc.gov/s3fs-public/SupplementalNoticeofProposedRulemakingforInfantSleepProducts\\_10\\_16\\_2019.pdf](https://www.cpsc.gov/s3fs-public/SupplementalNoticeofProposedRulemakingforInfantSleepProducts_10_16_2019.pdf)).